

REMARKS

In the Official Action, the Examiner rejected claims 1-12. Further, the Examiner noted that one item listed on the submitted IDS was not considered. In the present response, Applicants have submitted the item that the Examiner states was not provided with the original IDS and provided arguments against the Examiner's rejection of claims 1-12. Accordingly, Applicants respectfully request reconsideration of the pending claims 1-12.

Information Disclosure Statement

In the Official Action, the Examiner states that a copy was not provided of a non-patent publication listed on Applicant's Information Disclosure Citation, namely The Rock Physics Handbook by Mavko, et al. Applicant notes that a copy of the title page of this book and its table of contents was provided to the Office. This is a 329 page, copyright protected book. Applicant encloses herewith a copy of the pages of text believed to have caused this book to have been included in the Information Disclosure Citation. If the Examiner notes any other topics of interest in the table of contents, please contact the undersigned and we will promptly fax the corresponding pages of the book, or, if necessary, give the book to the Office. If a late fee is applicable, please charge Applicant's account 05-1328.

Applicant wishes to advise the Examiner that an EPO search report dated August 18, 2005, received by Applicant on or about September 8, 2005, is being submitted to the USPTO by separate transmittal in a supplemental Information Disclosure Statement along with a copy of the PCT patent publication WO 00/48022 which is designated a category "X" reference in the EPO search report. Applicant was not aware of this reference until the EPO search report was received and read.

Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-12 under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 6,603,313 to Srnka, which is herein referred to as

"Srnska," and U.S. Patent No. 5,461,562 to Tabanou et al., which is herein referred to as "Tabanou." Applicants respectfully traverse the rejection.

In the rejection, the Srnska reference is available as prior art only under 35 U.S.C. § 102(e)/103(a). However, Applicants respectfully point out that the Srnska reference is unavailable as prior art under 35 U.S.C. §103(c). Applicants respectfully refer the Examiner to 35 U.S.C. § 103(c) which states:

Subject matter developed by another person, which qualifies as prior art under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In accordance with 35 U.S.C. § 103(c) and Pub. L. 106-113, § 4807, enacted November 29, 1999, subject matter developed by another person which qualifies as prior art only under subsection (e) of 35 U.S.C. § 102, shall not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Here, the present application and the Srnska reference were both assigned to ExxonMobil Upstream Research Company or subject to an obligation of assignment to ExxonMobil Upstream Research Company at the time the invention was made. Thus, the Srnska reference is unavailable as prior art under 35 U.S.C. § 103(c). With the Srnska reference being unavailable as prior art, Applicants respectfully submit that the rejection cannot stand because the Tabanou reference fails to disclose all of the recited features.

Accordingly, because the Srnska reference is unavailable as prior art, Applicants respectfully submit that the rejection cannot stand. Therefore, Applicants respectfully request the Examiner's withdraw the rejection and allow the pending claims 1-12.

CONCLUSION




In view of the remarks set forth above, Applicants respectfully requests withdrawal of the Examiner's rejections and allowance of claims 1-12. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Oct. 12, 2005
Date

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| Certification under 37 CFR §§ 1.8(a) and 1.10 | | | | | |
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| I hereby certify that, on the date shown below, this application/correspondence attached hereto is being: | | | | | |
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| <input checked="" type="checkbox"/> deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231. 37 C.F.R. § 1.8(a) | 37 C.F.R. § 1.10 | | | | |
| <input checked="" type="checkbox"/> with sufficient postage as first class mail. | <input type="checkbox"/> as "Express Mail Post Office to Addressee" | | | | |
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| <input type="checkbox"/> transmitted by facsimile to the Examiner D. Stephenson at the USPTO at facsimile number: | | | | | |